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**THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
STATE OF IDAHO, COUNTY OF FREMONT**

STATE OF IDAHO,)	Case No.: CR22-21-1623
)	
Plaintiff,)	MEMORANDUM
)	REPLY TO STATE’S MOTION TO
v.)	ALLOW ADDITIONAL EVIDENCE &
)	FOLLOW IDAHO CODE § 19-1816 BY
CHAD DAYBELL,)	TRANSPORTING A JURY
Defendant.)	
)	

COMES NOW the Defendant, Chad Daybell, by and through undersigned counsel, John Prior and hereby submits this Memorandum Reply to the prosecution’s Motion for the Court to Allow Additional Evidence & Follow Idaho Code § 19-1816 by Transporting a Jury. Pursuant to the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Idaho Const. Article I, Sections 6, 7, 8 and 13, the Idaho Code, as well as the legal authorities cited below, Mr. Daybell respectfully requests that this Court deny the prosecution’s motion to reconsider since it has been improperly brought before the Court. In its October 8, 2021, Memorandum Decision on Defendant’s Motion to Change Venue, the Court directly addressed the arguments raised in the State’s motion to reconsider and ruled against them. The prosecution has not submitted any new evidence since the Court’s ruling and there has been no change in circumstances that would support a reconsideration.

In the event the Court disagrees and permits the prosecution to bring additional evidence in favor of its Motion—evidence that should already have been submitted—Mr. Daybell requests an evidentiary hearing, at which the State bears the burden of providing new and material evidence that could substantially impact the Court’s prior ruling. After that hearing, were the Court to determine that the prosecution satisfied this threshold burden, Mr. Daybell would request leave of the Court to obtain independent experts that can review the State’s submitted evidence and testify on behalf of Mr. Daybell in this matter.

As grounds for his motion, Mr. Daybell asserts the following:

I. The Court Already Addressed the State’s Arguments and Issued a Reasoned Decision on this Matter.

On July 21, 2021, Mr. Daybell moved for a change of venue in order to ensure fair trial proceedings, and a hearing was set for October 5, 2021. In support of his motion, Mr. Daybell submitted many exhibits documenting the prejudice that he would suffer if venue were not changed. On September 29, 2021, three business days before the hearing date, the prosecution submitted a response to Mr. Daybell’s motion and agreed with the request for a venue change. However, the prosecution also moved to impanel a jury from another county, instead of transferring the trial itself. On October 4, 2021, Mr. Daybell filed a Reply to the State’s Request to Impanel Jurors from Another County and to Sequester the Jury.¹ At the hearing held on October 5, 2021, the State presented evidence in support of its request. Two law enforcement officers testified on behalf of the State, Sheriff Len Humphries, and Chief Shane Turman. Their testimony directly addressed “the costs and hardships of transporting a jury from another county versus

¹ Mr. Daybell hereby incorporates in full the arguments and authorities in his Reply to the State’s Request to Impanel Jurors from Another County and to Sequester the Jury, particularly his arguments regarding the State’s burden when requesting that a jury be impaneled from another jurisdiction and the likely prejudice that Mr. Daybell would suffer as a result of doing so.

